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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,785	04/08/2002	Heikki Kallio	TUR-124	1916

7590 07/20/2004

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EXAMINER

KOHNER, MATTHEW J

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,785

Applicant(s)

KALLIO ET AL.

Examiner

Matthew J Kohner

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MLW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Response of 4/26/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant has argued that the claimed invention defines over the combined teachings of the references. Specifically, applicant argues:

1. "... 'direct inlet gas-phase' FT-IR spectroscopy is defined in the specification as excluding FT-IR coupled with any chromatographic device (Applicant's response to office action page 1)."

2. "the present application specifies that 'direct inlet' gas-phase FTIR spectroscopy requires the sample gas or volatiles to be injected directly into the spectrometer's sample cell (Applicant's response to office action page 2) ..."

In regard to applicant's first argument, Bjarno specifically distinguishes his invention from chromatographical methods. Bjarno discloses several chromatographic methods such as thin layer chromatography, gas chromatography, high pressure liquid chromatography and gas/liquid chromatography as prior art (Col. 5, lines 67- Col. 6, lines 15). However, Bjarno specifically notes that these methods have failing sensitivity (Col. 6, lines 10+). Therefore, applicant's argument that the invention defines over the prior art since the invention excludes coupling FT-IR to any chromatographic device is not persuasive, since Bjarno also distinguishes his device from chromatographic devices.

In regard to applicant's second argument, Bjarno discloses, "a vapor phase provided by evaporation of fat from the individual boar carcass ..." may be used as the sample for analysis (Col. 7, lines 11+). Bjarno continues, "If the sample from the carcass is evaporated, the sample

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withdrawal may simply be performed by aspiration ..." Bjarno, therefore, performs a "direct inlet gas phase" analysis.

Therefore, the rejection of the previous office action is maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,384,206 to Bjarno.

Bjarno discloses a method for analysis of a nutritive product in a stage of treatment, in respect of a volatile or volatilizable compound present in or derived from the nutritive product (Col. 6, lines 48-57) which includes:

Taking a sample of the nutritive product (Col. 7, lines 36+);

Subjecting the sample to analysis, wherein the analysis is carried out by a gas-phase infrared spectroscopic method (Col. 7, lines 50-59) fast enough to make the result of the analysis available to the stage of treatment while the analyzed product is in said stage of treatment (See Col. 6, lines 50+ where Bjarno discloses the method is suitable for on-line utilization in slaughter houses; Further see col. 7, lines 16+).

Bjarno does not specifically disclose that the IR spectroscopic method utilizes a Fourier transform technique. However, this is known in the art (see e.g. US Patent No. 4,102,646 to

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Sleeter, Col 3, lines 19+). Sleeter discloses that IR Fourier transform spectroscopy is a basic technique in this field. Therefore, it would be obvious to one of ordinary skill in the art to use the Fourier transform technique with the method disclosed by Bjarno. Further, there is motivation to combine these teachings since using the Fourier transform technique would increase of the accuracy of the IR spectroscopic method.

In particular regard to claim 9, see Col. 6, lines 50+.

In particular regard to claim 12, See Col. 6, lines 50+ where Bjarno discloses the method is suitable for on-line utilization in slaughter houses.

In particular regard to claims 13 and 16, Bjarno specifically discloses androstenone and skatol (Col. 8, lines 31+).

In particular regard to claim 14, Bjarno discloses sorting the carcasses with Boar taint from the carcasses without boar taint (Col. 1, line 35). Further Bjarno discloses that the sample is taken subsequent to coding in (i.e. labeling) the number of the pig (Col. 7, lines 38+).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 703-305-8496. The examiner can normally be reached on Mon-Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on 703-306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Matthew J. Kohner
Examiner
Art Unit 3653

mjk


DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
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